

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HI-TECH TERMITE CONTROL OF THE
BAY AREA, INC.,

No. C-12-4212 MMC

Plaintiff,

**ORDER AFFORDING PARTIES LEAVE
TO FILE SUPPLEMENTAL BRIEFING;
CONTINUING HEARING**

v.

DIRECTORY ASSISTANTS, INC., et al.,
Defendants.

Before the Court is plaintiff's Motion to Remand, filed August 22, 2012. Defendants Directory Assistants, Inc., Richard Sica, and David M. Ford have filed opposition, to which plaintiff has replied. Having read and considered the parties' respective written submissions, the Court finds it appropriate to afford the parties leave to supplement their submissions and to continue the hearing on the motion.

In its reply, plaintiff objects to statements made by Michael Cody ("Cody"), upon whose declaration defendants rely. As plaintiff correctly points out, Cody fails to sufficiently set forth the factual basis for his statement that plaintiff "would have paid approximately \$75,732.00 to renew its existing yellow page program in 2012" (see Cody Decl. ¶ 8), or to set forth how he obtained personal knowledge of the facts used to support said statement. Given the timing of such arguments,¹ defendants have not had an opportunity to address

¹Because defendants' showing as to the amount in controversy was not set forth in any detail until defendants' opposition, the first opportunity plaintiff had to respond thereto was in its reply.

1 the evidentiary deficiencies. Under the circumstances, the Court will afford the parties
2 leave to file supplemental briefing, as follows:


3 1. No later than September 28, 2012, defendants may file a supplemental
4 declaration or declarations to support the above-referenced statement by Cody.

5 2. No later than October 12, 2012, plaintiff may file a supplemental reply.

6 3. The hearing on plaintiff's motion to remand is hereby CONTINUED from
7 September 28, 2012 to October 26, 2012, at 9:00 a.m.

8 **IT IS SO ORDERED.**

9
10 Dated: September 19, 2012


MAXINE M. CHESNEY
United States District Judge